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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,695	03/24/2004	Ali Nilforushan	8048-002-US	4408

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,695

Applicant(s)

NILFORUSHAN, ALI

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,11-17 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,11-17 and 29-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-5,7,8,11,14,16,17,34,36,37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (CA 1261908A) in view of Palmer (965834).

For claim 1, Gordon teaches an animal cover adapted to conform to the shape of an animal's body to deliver a temperature alternating regimen to a specific targeted area of the body, the animal cover comprising: a body 10-12 having an interior and exterior side, a neck end 14 fitting around the animal's neck, and buttock region (in the area of refs. 15, 23); a temperature altering device (the heating pad, see abstract or page 6, 1st paragraph); a plurality of cavities 19 located within the body of the animal cover to deliver a temperature altering regimen to a targeted area of the animal's body.

However, Gordon is silent about a flap adjustably attached to the buttock region of the body of the animal cover for securing the animal cover on the animal.

Palmer teaches an animal cover comprising a body 1 and a flap 7 adjustably attached (adjustably attached by strap 10) to the buttock region of the body of the cover for securing the cover on the animal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ adjustable flaps as taught by Palmer in the buttock region of the cover of Gordon in order to further secure

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the cover onto the animal. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claims 2-4, Gordon as modified by Palmer (emphasis on Gordon) further teaches wherein the cavities are positioned within the body of the animal cover to deliver a temperature altering regimen to an animal's muscle group selected from the group consisting of spine, stifle, shoulder, neck, thigh, elbow, withers, scapula, back, loin, croup, thigh, buttock, stifle, abdomen, girth, forearm, arm, chest and hip. See fig. 2 of Gordon for various placement of the cavities covering the listed muscle group.

For claim 5, Gordon as modified by Palmer (emphasis on Gordon) further teaches wherein the temperature altering device is located within the plurality of cavities. The heating pad is located in pockets 19, see page 6 of Gordon.

For claim 7, Gordon as modified by Palmer (emphasis on Gordon) further teaches wherein the temperature altering device is removably located in the cavities. The heating pad can be remove from pockets 19, see page 6 of Gordon.

For claim 8, Gordon as modified by Palmer (emphasis on Gordon) further teaches wherein a cavity is a sealable pocket 19 for holding the temperature altering device, comprising a seal 22 selected from the group consisting of hook and loop, zipper, buttons and snaps.

For claim 11, Gordon as modified by Palmer (emphasis on Gordon) further teaches wherein the body of the animal cover is made of a material that wicks moisture away from the animal's body. See page 5, 2nd paragraph.

For claims 14 & 36, in addition to the already mentioned features above, Gordon as modified by Palmer (emphasis on Palmer) further teaches the flap adjustably attached to the buttock region of the body of the animal cover, wherein the animal cover is secured on the animal by wrapping the flap around the animal's thigh (see fig. 1 of Palmer). However, Gordon as modified by Palmer is silent about the cavity located on the flap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the cavity on the flap Gordon as modified by Palmer, depending on the treated area desired (in this case, the thigh) by the user for treating the horse. *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claim 16, Gordon as modified by Palmer further teaches wherein the animal is a horse.

For claim 17, Gordon as modified by Palmer further teaches wherein the animal cover is a horse blanket and the animal is a horse.

For claims 34 & 37, Gordon as modified by Palmer (emphasis on Gordon) further teaches a cut away portion 14 at the neck end of the body of the animal cover to fit around the animal's neck. Note that portion 14 is cut or recessed from the straight edge of the blanket.

3. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as modified by Palmer as applied to claim 1 above, and further in view of Beeghly et al. (5537954).

Gordon as modified by Palmer is silent about the cavities further comprise a material on the exterior side of the body of the animal cover that reflects the heat emitted from the temperature altering device towards the animal's body for maximum efficiency of heat transfer.

Beeghly et al. teach the cavities further comprise a material on the exterior side of the body of the cover that will reflect the temperature emitted from the altering device towards the body of the animal for maximum efficiency of temperature transfer (col. 5, lines 35-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a material that reflect temperature as taught by Beeghly et al. for the cavities of Gordon as modified by Palmer in order to retain heat so as to prolong warmth for the animal. *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

4. **Claims 13,15,29-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as modified by Palmer as applied to claims 1 & 14 above, and further in view of Tadauchi et al. (JP 10113088A).

For claims 13 & 15, Gordon as modified by Palmer (emphasis on Gordon) teaches the cavities being sewn onto the body but not adjustably placed on the body of the animal cover, especially at the flap area, to adapt to the animal's body of different sizes.

Tadauchi et al. teach an animal cover 1 comprising a body 1 having an interior and exterior side; a plurality of cavities 22,23 removably attached to the body by VELCRO; and a temperature altering device 21,24 located inside the cavities. It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to have the cavities of Gordon as modified by Palmer be adjustable on the body as taught by Tadauchi et al. in order to allow a user to move the cavities with the temperature altering device therein as desired to the area of the animal that needs to be treated. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claim 29, Gordon as modified by Palmer and Tadauchi et al. teaches wherein the animal cover further comprises a flap cavity attached to the flap. The adjustable cavity is taught by Tadauchi et al. and the flap is taught by Palmer, thus, one of ordinary skill would place the cavity in the flap area of the cover of Gordon as modified by Palmer and Tadauchi et al., depending on the area of the animal to be treated. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claim 30, Gordon as modified by Palmer and Tadauchi et al. teaches wherein the flap cavity is adjustable along the flap by the removable attachment using VELCRO teaching of Tadauchi et al.

For claim 31, Gordon as modified by Palmer and Tadauchi et al. is silent about wherein the flap cavity is slideably connected to the flap. It would have been an obvious substitution of functional equivalent to substitute the removably attachable flap cavities by VELCRO of Gordon as modified by Palmer and Tadauchi et al. with flap cavities that is slideably connected to the flap, since both types of removable/adjustable attachment of the cavities would perform the same function to allow a user to adjust the cavities as

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desired. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claim 32, Gordon as modified by Palmer and Tadauchi et al. is silent about wherein the flap cavity further comprises a layer that forms a shaft to allow the flap cavity to slide along the flap. It would have been an obvious substitution of functional equivalent to substitute the removably attachable flap cavities by VELCRO of Gordon as modified by Palmer and Tadauchi et al. with flap cavities that further comprises a layer that forms a shaft to allow the flap cavity to slide along the flap, since both types of removable/adjustable attachment of the cavities would perform the same function to allow a user to adjust the cavities as desired. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

For claim 33, Gordon as modified by Palmer and Tadauchi et al. is silent wherein the flap cavity is located inside the flap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the cavity inside the flap of the cover of Gordon as modified by Palmer and Tadauchi et al., since it has been held that rearranging parts (to hide the cavity or to treat the inside of the thigh area) of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

5. **Claims 35 & 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as modified by Palmer as applied to claims 1 & 14 above, and further in view of Hand (541536).

Gordon as modified by Palmer is silent about a protrusion attached to the neck end of the body of the animal cover, whereby the protrusion covers at least a portion of the animal's neck.

Hand teaches an animal cover comprising a protrusion A attached to the neck end of a body of the animal cover, whereby the protrusion covers at least a portion of the animal's neck. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a protrusion as taught by Hand in the neck end of the body of the animal cover of Gordon as modified by Palmer in order to accommodate different animal neck sizes (Hand, page 1, right column, lines 51-55). KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007).

Response to Arguments

6. Applicant's arguments with respect to claims 1-5,7-8,11-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Son T. Nguyen'.

Son T Nguyen
Primary Examiner
AU 3643